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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Farwick, *et al.*

Appl. No.: 09/819,930

Filed: March 29, 2001

For: **New Nucleotide Sequences
Encoding the ptsH Gene**

Art Unit: 1652

Examiner: C. Fronda

Atty. Dkt. 021123-0278412

May 1, 2003

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PETITION PURSUANT TO 37 C.F.R. § 1.78 (a) (3)

Mail Stop Petition
Commissioner for Patents
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Alexandria VA 22131-1450

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Sir:

I. Petition Request/Remarks

Pursuant to the provisions of 37 C.F.R. §1.78 (a)(3), the applicants respectfully submit the present petition in order to correct the claim of priority for the above-identified application.

U.S. Patent Appl. No. 09/819,930 (hereinafter the '930 application) was filed on March 29, 2001, claiming priority to U.S. Patent Appl. No. 09/755,187 (hereinafter the '187 application) as a continuation-in-part. The '187 application was filed with on January 8, 2001 claiming priority to German Patent Appl. No. DE 100 01 101.2 (hereinafter German '101.2) filed on January 13, 2000. Prior to filing the '187 application, the applicants filed U.S. Patent Appl. No. 09/503,189 (hereinafter the '189 application), with the United States Patent and Trademark Office on February 14, 2000. The '189 application, which also claims priority to German '101.2, is simply the U.S. counterpart of German '101.2.

The '187 application is the same as the '189 application, but for the addition of Figs-1-3 and Examples 3-5. The '930 application is the same as the '187 application but for some

minor wording changes throughout the specification and the addition of a new sequence in the sequence listing. Therefore, and logically the '930 application should have been filed as a continuation-in-part of the '187 application, which itself should have been filed claiming the benefit of the '189 application as a continuation-in-part, rather than simply claiming priority to German '101.2, alone (the applicants are filing, under separate cover, a "Petition Pursuant to 37 C.F.R. §1.78(a)(3)" to correct the priority of U.S. Patent Appl. No. 09/755,187).

Until recently discovered, the applicants assumed that the '187 application claimed priority to the '189 application (as a continuation-in-part), which itself claimed priority to German '101.2. By this petition, the applicants are requesting the correction to and update of the priority of the '930 application, showing the intention of the applicants that the '930 application is a continuation-in-part of the '187 application, which itself is a continuation-in-part of the '189, which itself claims priority to German '101.2.

II. Requirement Pursuant to 37 C.F.R. 1.78(a)(3)(i)

Pursuant to 37 C.F.R. §1.78(a)(3)(i), the applicants have submitted herewith an amendment to correct and update the claim of priority in the specification of the '930 application.

III. Requirement Pursuant to 37 C.F.R. §1.78(a)(3)(ii)

Pursuant to 37 C.F.R. §1.78(a)(3)(ii), the Patent Office is hereby authorized to charge the required fee of 37 C.F.R. §1.17(t), \$1300, to the undersigned's firm's deposit account, 03-3975, under order no. 021123-0275573.

IV. Requirement of 37 C.F.R. §1.78(a)(3)(iii)

Pursuant to 37 C.F.R. §1.78(a)(3)(iii) and in view of the recently discovered error, the applicants, through their attorney, submit and state that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed (today, May 1, 2003) was unintentional.

V. Conclusion

In view of the foregoing, the applicants respectfully request a favorable decision on this present petition.

Respectfully submitted,

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Enclosure: Amendment